

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**JONAS KIM**  
1867 Virginia Rd.  
San Marino, CA 91108

Original Pharmacist No. RPH 40260

Respondent.

Case No. 3120

OAH No. 2008050831

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 26, 2009.

It is so ORDERED on January 27, 2009.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 THOMAS L. RINALDI, State Bar No. 206911  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-2541  
Facsimile: (213) 897-2804

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 JONAS KIM  
12 1867 Virginia Rd.  
San Marino, CA 91108  
13 Pharmacist License No. RPH 40260

14 Respondent.

Case No. 3120

OAH No. 2008050831

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15  
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
17 above-entitled proceedings that the following matters are true:

18 PARTIES

19 1. Virginia Herold (Complainant) is the Executive Officer of the Board of  
20 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
21 by Edmund G. Brown Jr., Attorney General of the State of California, by Thomas L. Rinaldi,  
22 Deputy Attorney General.

23 2. Respondent Jonas Kim (Respondent) is represented in this proceeding by  
24 attorney Herbert L. Weinberg, whose address is 1800 Century Park East, 8th Floor  
25 Los Angeles, CA 90067.

26 3. On or about August 21, 1986, the Board of Pharmacy issued Pharmacist  
27 License No. RPH 40260 to Respondent. The Pharmacist License was in full force and effect at  
28 all times relevant to the charges brought in Accusation No. 3120 and will expire on November

1 30, 2009, unless renewed.

2 JURISDICTION

3 4. Accusation No. 3120 was filed before the Board of Pharmacy (Board),  
4 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
5 and all other statutorily required documents were properly served on Respondent on February 22,  
6 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of  
7 Accusation No. 3120 is attached as exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, fully discussed with counsel, and  
10 understands the charges and allegations in Accusation No. 3120. Respondent has also carefully  
11 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
12 Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the  
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
15 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
16 the right to present evidence and to testify on his own behalf; the right to the issuance of  
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
18 reconsideration and court review of an adverse decision; and all other rights accorded by the  
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent understands and agrees that the charges and allegations in  
24 Accusation No. 3120, if proven at a hearing, constitute cause for imposing discipline upon his  
25 Pharmacist License.

26 9. For the purpose of resolving the Accusation without the expense and  
27 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
28 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up

1 his right to contest those charges.

2 10. Respondent agrees that his Pharmacist License is subject to discipline and  
3 he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary  
4 Order below.

5 RESERVATION

6 11. The admissions made by Respondent herein are only for the purposes of  
7 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional  
8 licensing agency is involved, and shall not be admissible in any other criminal or civil  
9 proceeding.

10 CONTINGENCY

11 12. This stipulation shall be subject to approval by the Board of Pharmacy.  
12 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
13 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,  
14 without notice to or participation by Respondent or his counsel. By signing the stipulation,  
15 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind  
16 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt  
17 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall  
18 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
19 between the parties, and the Board shall not be disqualified from further action by having  
20 considered this matter.

21 13. The parties understand and agree that facsimile copies of this Stipulated  
22 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
23 force and effect as the originals.

24 14. In consideration of the foregoing admissions and stipulations, the parties  
25 agree that the Board may, without further notice or formal proceeding, issue and enter the  
26 following Disciplinary Order:

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1                   4.       **Cooperation with Board Staff.** Respondent shall cooperate with the  
2 Board's inspectional program and in the Board's monitoring and investigation of Respondent's  
3 compliance with the terms and conditions of his probation. Failure to comply shall be  
4 considered a violation of probation.

5                   5.       **Continuing Education.** Respondent shall provide evidence of efforts  
6 to maintain skill and knowledge as a pharmacist as directed by the Board.

7                   6.       **Notice to Employers.** Respondent shall notify all present and  
8 prospective employers of the decision in case number 3120 and the terms, conditions and  
9 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of  
10 this decision, and within 15 days of Respondent undertaking new employment, Respondent  
11 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in  
12 writing acknowledging the employer has read the decision in case number 3120.

13                         If Respondent works for or is employed by or through a pharmacy employment  
14 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at  
15 every pharmacy of the and terms conditions of the decision in case number 3120 in advance of  
16 the Respondent commencing work at each pharmacy.

17                         "Employment" within the meaning of this provision shall include any full-time, part-  
18 time, temporary, relief or pharmacy management service as a pharmacist, whether the  
19 Respondent is considered an employee or independent contractor.

20                   7.       **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**  
21 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern  
22 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the  
23 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this  
24 order.

25                   8.       **Reimbursement of Board Costs.** Respondent shall pay to the Board  
26 its costs of investigation and prosecution in the amount of \$3,152.00. Respondent shall make  
27 said payments in one lump sum within thirty days of the effective date of the Board's Order  
28 adopting this decision or pursuant to a payment plan approved by the Board.

1           The filing of bankruptcy by Respondent shall not relieve Respondent of his  
2 responsibility to reimburse the Board its costs of investigation and prosecution.

3           **9. Probation Monitoring Costs.** Respondent shall pay the costs  
4 associated with probation monitoring as determined by the Board each and every year of  
5 probation. Such costs shall be payable to the Board at the end of each year of probation.  
6 Failure to pay such costs shall be considered a violation of probation.

7           **10. Status of License.** Respondent shall, at all times while on probation,  
8 maintain an active current license with the Board, including any period during which  
9 suspension or probation is tolled.

10           If Respondent's license expires or is cancelled by operation of law or otherwise,  
11 upon renewal or reapplication, Respondent's license shall be subject to all terms and  
12 conditions of this probation not previously satisfied.

13           **11. License Surrender while on Probation/Suspension.** Following the  
14 effective  
15 date of this decision, should Respondent cease practice due to retirement or health, or be  
16 otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his  
17 license to the Board for surrender. The Board shall have the discretion whether to grant the  
18 request for surrender or take any other action it deems appropriate and reasonable. Upon  
19 formal acceptance of the surrender of the license, Respondent will no longer be subject to the  
20 terms and conditions of probation.

21           Upon acceptance of the surrender, Respondent shall relinquish his pocket  
22 license to the Board within 10 days of notification by the Board that the surrender is accepted.  
23 Respondent may not reapply for any license from the Board for three years from the effective  
24 date of the surrender. Respondent shall meet all requirements applicable to the license sought  
25 as of the date the application for that license is submitted to the Board.

26           **12. Notification of Employment/Mailing Address Change.** Respondent  
27 shall notify the Board in writing within 10 days of any change of employment. Said  
28 notification shall include the reasons for leaving and/or the address of the new employer,

1 supervisor or owner and work schedule if known. Respondent shall notify the Board in  
2 writing within 10 days of a change in name, mailing address or phone number.

3           **13. Tolling of Probation.** Should Respondent, regardless of residency, for  
4 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in  
5 California, Respondent must notify the Board in writing within 10 days of cessation of the  
6 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time  
7 shall not apply to the reduction of the probation period. It is a violation of probation for  
8 Respondent's probation to remain tolled pursuant to the provisions of this condition for a  
9 period exceeding three years.

10           "Cessation of practice" means any period of time exceeding 30 days in which  
11 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of  
12 the Business and Professions Code.

13           **14. Violation of Probation.** If Respondent violates probation in any  
14 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke  
15 probation and carry out the disciplinary order which was stayed. If a petition to revoke  
16 probation or an accusation is filed against Respondent during probation, the Board shall have  
17 continuing jurisdiction and the period of probation shall be extended, until the petition to  
18 revoke probation or accusation is heard and decided.

19           If Respondent has not complied with any term or condition of probation, the  
20 Board shall have continuing jurisdiction over Respondent, and probation shall automatically  
21 be extended until all terms and conditions have been satisfied or the Board has taken other  
22 action as deemed appropriate to treat the failure to comply as a violation of probation, to  
23 terminate probation, and to impose the penalty which was stayed.

24           **15. Completion of Probation.** Upon successful completion of probation,  
25 Respondent's license will be fully restored.

26           **16. No Ownership of Premises.** Respondent shall not own, have any legal  
27 or beneficial interest in, or serve as a manager, administrator, member, officer, director,  
28 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter

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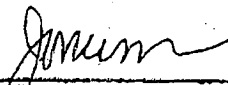
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1 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any  
2 entity licensed by the Board within 90 days following the effective date of this decision and  
3 shall immediately thereafter provide written proof thereof to the Board,

4 ACCEPTANCE

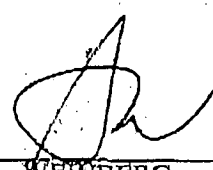
5 I have carefully read the above Stipulated Settlement and Disciplinary Order  
6 and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the  
7 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated  
8 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
9 bound by the Decision and Order of the Board of Pharmacy.

10 DATED: 11/7/08

11  
12   
13 JONAS KIM  
Respondent

14 I have read and fully discussed with Respondent Jonas Kim the terms and  
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
16 Order. I approve its form and content.

17 DATED: 11/7/08

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HERBERT L. WEINBERG  
Attorney for Respondent

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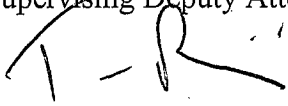
1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby  
3 respectfully submitted for consideration by the Board of Pharmacy of the Department of  
4 Consumer Affairs.

5 DATED: 12/15/08

6 EDMUND G. BROWN JR., Attorney General  
7 of the State of California

8 KAREN B. CHAPPELLE  
9 Supervising Deputy Attorney General

10   
11 THOMAS L. RINALDI  
12 Deputy Attorney General

Attorneys for Complainant

13 DOJ Matter ID: LA2007601686  
14 jonas kim stipulation.wpd  
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**Exhibit A**

**Accusation No. 3120**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 THOMAS L. RINALDI, State Bar No. 206911  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-2541  
Facsimile: (213) 897-2804  
6  
Attorneys for Complainant

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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3120

11 JONAS KIM  
12 1867 Virginia Rd.  
San Marino, CA 91108  
13 Pharmacist License No. RPH 40260

**ACCUSATION**

14 Respondent.

15  
16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about January 11, 1999, the Board of Pharmacy issued Original  
21 Permit No. PHY 44001 to Jonas Kim and Sharon Villegas, Partners, doing business as Toms  
22 Pharmacy. (Respondent Tom's Pharmacy). On February 7, 2003, Jonas Kim became the sole  
23 owner. On April 21, 2004, Toms Pharmacy incorporated, doing business as Tom's Pharmacy,  
24 Inc. Jonas Kim served as CEO, President, and Secretary. The Permit was in full force and  
25 effect at all times relevant to the charges brought herein. The license was canceled on January  
26 31, 2007 due to a discontinuance of business. Jonas Kim was the Pharmacist-in-Charge of  
27 Tom's Pharmacy from January 11, 1999 through January 31, 2007.

28 3. On or about August 21, 1986, the Board of Pharmacy issued Original

1 Pharmacist License Number RPH 40260 to Jonas Kim. (Respondent Kim). The pharmacist  
2 license was in full force and effect at all time relevant to the charges brought herein and will  
3 expire on November 30, 2007 unless renewed.

#### 4 JURISDICTION

5 4. This Accusation is brought before the Board of Pharmacy (Board),  
6 Department of Consumer Affairs, under the authority of the following laws. All section  
7 references are to the Business and Professions Code unless otherwise indicated.

8 5. Section 4300 of the Code provides, in pertinent part, that every license  
9 issued by the Board is subject to discipline, including suspension or revocation.

10 6. Section 4301 of the Code states:

11 "The board shall take action against any holder of a license who is guilty of  
12 unprofessional conduct or whose license has been procured by fraud or misrepresentation or  
13 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
14 following:

15 . . . .

16 "(j) The violation of any of the statutes of this state or of the United States  
17 regulating controlled substances and dangerous drugs.

18 . . . .

19 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or  
20 abetting the violation of or conspiring to violate any provision or term of this chapter or of the  
21 applicable federal and state laws and regulations governing pharmacy, including regulations  
22 established by the board.

23 7. Section 4081 of the Code, subdivision states in pertinent part:

24 "(a) All records of manufacture and of sale, acquisition, or disposition of  
25 dangerous drugs or dangerous devices shall be at all times during business hours open to  
26 inspection by authorized officers of the law, and shall be preserved for at least three years from  
27 the date of making. A current inventory shall be kept by every manufacturer, wholesaler,  
28 pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian,

laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.”

“(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.

8. Section 4105, subdivision (a), of the Code states that all records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the Board shall be retained on the licensed premises in a readily retrievable form.

9. Section 4113(b) provides in pertinent part that the pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

10. California Code of Regulations, title 16, section 1718 states:

“Current Inventory” as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

11. Business and Professions Code section 118, subdivision (b) states:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

12. Business and Professions Code section 125.3, subdivision (a), states, in

1 pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a  
2 disciplinary proceeding before any board within the department . . . the board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations  
4 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case."

6 FIRST CAUSE FOR DISCIPLINE

7 (Failure to Account for Dangerous Drugs and/or Controlled Substances)

8 13. Respondent is subject to disciplinary action pursuant to section 4300 and  
9 4301(j) and (o) for violation of sections 4081(a) and 4105(a), in conjunction with California  
10 Code of Regulations, title 16, section 1718, in that Respondent failed to provide records of  
11 disposition for dangerous drugs and/or controlled substances for the period of January 26, 2004  
12 through January 31, 2007 as follows:

- 13 a. 725 tablets of Dilaudid (4mg.).
- 14 b. 7,183 tablets of OxyContin (40mg.).
- 15 c. 3,697 tablets of OxyContin (80 mg.)
- 16 d. 3,252 tablets of Vicodin.
- 17 e. 17,059 tablets of Vicodin ES.

18 SECOND CAUSE FOR DISCIPLINE

19 (Failure to Provide Acquisition Records)

20 14. Respondent is subject to disciplinary action pursuant to section 4300 and  
21 4301(j) and (o) for violation of sections 4081(a) and 4105(a), in conjunction with California  
22 Code of Regulations, title 16, section 1718 in that Respondent failed to provide records of  
23 acquisition of dangerous drugs as follows:

- 24 a. Failed to maintain and/or provide records of acquisition of dangerous  
25 drugs and/or controlled substances purchased from wholesalers HD Smith and Parmed  
26 Pharmaceuticals for the period January 26, 2004 through January 31, 2007.
- 27 b. Failed to maintain and/or provide records of acquisition of dangerous  
28 drugs purchased from wholesalers AmerisourceBergen and Anda Pharmaceuticals for the period

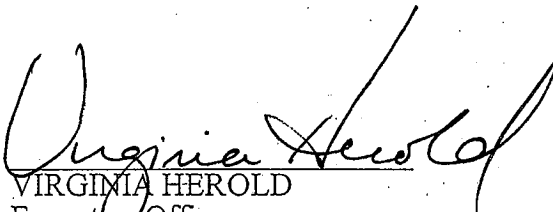
1 January 26, 2004 through November, 2005.

2 PRAYER

3 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
4 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

- 5 1. Revoking or suspending Original Pharmacist License Number RPH  
6 40260, issued to Jonas Kim;
- 7 2. Ordering Jonas Kim to pay the Board of Pharmacy the reasonable costs of  
8 the investigation and enforcement of this case, pursuant to Business and Professions Code  
9 section 125.3;
- 10 3. Taking such other and further action as deemed necessary and proper.

11  
12 DATED: 2/15/08

13   
14 VIRGINIA HEROLD  
15 Executive Officer  
16 Board of Pharmacy  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant

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